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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,447	08/15/2003	Peter So	MAIT-009XX	1584
	7590 02/16/200 N, SCHURGIN, GAGN	EXAMINER		
	FICE SQUARE	JOHNS, ANDREW W		
BOSTON, MA	02109	ART UNIT	PAPER NUMBER	
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SHORTENED STATUTOR	Y PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
31 D	AYS	02/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions to the many be available under the provision of 37 CFR 1130(1). In one event, however, may a carry by the timely filled in the provision of 37 CFR 1130(1). In one event, however, may a carry by the timely filled in the provision of 37 CFR 1130(1). In one event, however, may a carry by the timely filled on it in 100 period for reply is specified above, the maximum statutory printed will apply and value scries 30 (30) MONTHS from the maning date of this communication. Feature to reply within the set or creented period for reply value by a timely and scries and provision of the communication. Feature to reply within the set or creented period for reply value by a timely and scried that communication, even if limitly filled, may reduce any variety received by the Office I are than three months after the mailing date of this communication, even if limitly filled, may reduce any value of the communication of the communication. Status 1) Responsive to communication (5) filled on communication is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) Island a long in the application. 4a) Of the above claim(s) island and well-defined the province of the claim (s) island and well-defined the communication. 5] Claim(s) island a lowed. 6) Claim(s) island a lowed. 6) Claim(s) island a lowed. 7) Claim(s) island replected to by the Examiner. 10) The drawing(s) filled on 05 May 2004 island: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The oath or declaration is objected to by the Examiner. Note the attrached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 11) Ackno		Application No.	Applicant(s)					
Andrew W. Johns - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - If NO period for reply is gendlied above, the maximum stability or period will perly and will explay the firm the replication become ABANDONED 30 s.C. § 133: - If NO period for reply is gendlied above, the maximum stability or period will perly and will explay 50 kM, MONTH from the mailing date of this communication. - If NO period for reply is gendlied above, the maximum stability or period will perly and will explay 50 kM, MONTH from the mailing date of this communication. - If NO period for reply is gendlied above, the maximum stability or period will period will be a consent advantage of the stability or period will period will be a communication. - If NO period for reply is gendlied and the stability or period will be a communication. - If NO period for reply is gendlied and the stability or period will be a period on the stability of the stabi	Office Action Commons	10/642,447	SO ET AL.					
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2a) This action is FINAL. 2b)⊠ This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-29 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 7) Claim(s) is/are objected to. 8) Claim(s) 1-29 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on 05 May 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received.	Status							
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DETAILED ACTION

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Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
 - I. Claims 1-10 and 24-29, drawn to a method of generating three-dimensional images of a tissue, classified in class 382, subclass 133.
 - II. Claims 11-23, drawn to a system for providing a three-dimensional image of a region, classified in class 348, subclass 79.
- 2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.P.E.P. § 806.05(e)). In this case the system defined by the claims of group II do not require the specific sequence of operations defined by the method of group I, and can be used to generate images of tissues in substantially different ways. For example the system might section and image the tissues without imaging a plurality of layers in a plurality of volumes of the tissue, or might sequence the imaging and sectioning operations in a different manner than the claimed method.
- 3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see M.P.E.P. § 808.02), restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 C.F.R. § 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103(a) of the other invention.

- 5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(i).
- 6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Johns whose telephone number is (571) 272-7391. The examiner in normally available Monday through Friday, at least during the hours of 9:00 am to 3:00 pm Eastern Time. The examiner may also be contacted by e-mail using the address: andrew.johns@uspto.gov. (Applicant is reminded of the Office policy regarding e-mail communications. See M.P.E.P. § 502.03)

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Matt Bella, can be reached at (571) 272-7778. The fax phone number for this art unit is (571) 273-8300. In

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order to ensure prompt delivery to the examiner, all unofficial communications should be clearly labeled as "Draft" or "Unofficial."

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center Receptionist whose telephone number is (571) 272-2600.

A. Johns

14 February 2007

ANDREW W. JOHNS

PRIMARY EXAMINER